



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

ODOURI L. LYLES,

Petitioner,

vs.

LARRY CARTLEDGE, Warden,

Respondent.

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Civil Action No. 9:16-02789-MGL-BM

ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING RESPONDENT'S MOTION FOR SUMMARY JUDGMENT,
AND DISMISSING THE PETITION WITH PREJUDICE

This action arises under 28 U.S.C. § 2254. Petitioner is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting Respondent's Motion for Summary Judgment be granted and the Petition be dismissed with prejudice. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on February 8, 2017. ECF No. 40. On February 28, 2017, the Court entered an Order adopting the Report, granting Respondent's Motion for Summary Judgment, and dismissing the Petition based on Petitioner's failure to set forth any specific objections to the Report. ECF No. 43. The Clerk of Court entered a corresponding judgment that same day. ECF No. 44.

Petitioner subsequently filed a motion on March 6, 2017, ECF No. 46, requesting an extension of the time to file objections to the Report, which the Court granted, ECF No. 47. Petitioner filed his objections to the Report on March 10, 2017. ECF No. 50. Accordingly, the Court will vacate its February 28, 2017, Order and the corresponding judgment of the same date and reevaluate the Report in light of Petitioner's objections.

Under 28 U.S.C. § 636(b)(1), a district court is required to conduct a *de novo* review of those portions of the Magistrate Judge's Report to which a specific objection has been made. The Court need not conduct a *de novo* review, however, "when a party makes general and conclusory objections that do not direct the court to a specific error in the [Magistrate Judge's] proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982); *see* Fed. R. Civ. P. 72(b). As provided above, however, the Court need not—and will not—address any of Petitioner's arguments that fail to point the Court to alleged specific errors the Magistrate Judge made in the Report.

"A document filed *pro se* is 'to be liberally construed.'" *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quoting *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)). Courts are not, however, required to "conjure up questions never squarely presented to them" or seek out arguments for a party. *Beaudett v. City of Hampton*, 775 F.2d 1274, 1278 (4th Cir. 1985).

In Petitioner's objections, he begins by appearing to provide an explanation why his objections to the Report were late. ECF No. 50 at 1-2. Petitioner then states he objects to the Report's finding regarding prosecutorial misconduct. *Id.* at 2. He alleges prosecutorial misconduct "can be identified through the abusive or malicious practices of State actors, such as police officers" and claims "law enforcement officers unfairly target minorities" in South Carolina for crack cocaine. *Id.* He then offers a discussion of purported evidence allegedly demonstrating blacks are treated unfairly in the criminal justice system as a whole as well as a discussion of certain evidentiary rules and standards. *Id.* at 2-7.

Petitioner presents nothing in his objections to convince the Court the Magistrate Judge erred in recommending Respondent's Motion for Summary Judgment should be granted and the Petition should be denied. Any meaningful counter to the well-reasoned conclusions in the Report is absent. In an overabundance of caution, however, the Court has made a de novo review of the entire record. After having done so, the Court remains convinced granting Respondent's Motion for Summary Judgment and dismissing the Petition is proper. Therefore, for the reasons set forth in the Report, the Court will overrule Plaintiff's objections.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Respondent's Motion for Summary Judgment is **GRANTED**, and the Petition is **DISMISSED WITH PREJUDICE**. The Clerk of Court is directed to vacate the Court's February 28, 2017, Order, ECF No. 43, as well as the corresponding Judgment, ECF No. 44.

To the extent Petitioner requests a certificate of appealability from this Court, that certificate is **DENIED**.

IT IS SO ORDERED.

Signed this 15th day of March 2017 in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.